

14018. Misbranding of butter. U. S. v. 40 Cases of Butter. Tried to the court and a jury. Verdict for the Government. Decree of condemnation and forfeiture entered. Product released under bond. (F. & D. No. 20180. I. S. No. 24790-v. S. No. C-4761.)

On or about June 19, 1925, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 40 cases of butter, remaining in the original unbroken packages at San Antonio, Tex., alleging that the article had been shipped by Swift & Co., from Oklahoma City, Okla., May 19, 1925, and transported from the State of Oklahoma into the State of Texas, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Case) "Cresta Creamery Butter, Swift & Company, San Antonio, Texas," (carton) "Cresta Creamery Butter 1 Lb. Net Weight."

Misbranding of the article was alleged in the libel for the reason that the cartons containing the said article were labeled "1 Lb. Net Weight Cresta Creamery Butter," which said statement was false and misleading and deceived and misled the purchaser, in that the said cartons of butter did not weigh 1 pound as labeled. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 30, 1925, Swift & Co. having appeared as claimant for the property, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel and instructions from the court the jury retired and on October 2, 1925, returned a verdict for the Government. On October 2, 1925, a judgment of condemnation was entered, and it was ordered by the court that the product be released to the claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$400, conditioned in part that it not be used, sold or disposed of in violation of law.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

14019. Adulteration and misbranding of apples. U. S. v. Milton H. Pugsley (M. H. Pugsley). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 19592. I. S. No. 19226-v.)

On May 12, 1925, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Milton H. Pugsley, trading as M. H. Pugsley, Paw Paw, Mich., alleging shipment by said defendant, in violation of the food and drugs act as amended, on or about August 25, 1924, from the State of Michigan into the State of Illinois, of a quantity of apples which were adulterated and misbranded. The article was labeled in part: (Basket) "No. 1 Duchess 2½ Inch Min. * * * From M. H. Pugsley, Paw Paw, Mich."

Adulteration of the article was alleged in the information for the reason that apples of less than 2½ inches minimum diameter and of a lower grade than U. S. Grade No. 1 had been substituted for U. S. Grade No. 1, 2½ inches minimum diameter apples, which the said article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "No. 1 Duchess 2½ Inch Min.," borne on the labels, was false and misleading, in that the said statement represented that the baskets contained apples conforming to U. S. Grade No. 1 and of a minimum size of not less than 2½ inches in diameter, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it conformed to U. S. Grade No. 1 apples, of a minimum size of not less than 2½ inches in diameter, whereas the article did not conform to U. S. Grade No. 1 apples, of a minimum size of not less than 2½ inches in diameter but did contain apples of a lower grade than U. S. Grade No. 1 and less than 2½ inches in diameter. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 6, 1925, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25 and costs.

R. W. DUNLAP, *Acting Secretary of Agriculture.*